

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,753

IN THE MATTER OF:

Served July 21, 2015

SHEBA NETWORK, LLC, Trading as)
SHEBA, Suspension and Investigation)
of Revocation of Certificate)
No. 2368)

Case No. MP-2014-111

This matter is before the Commission on respondent's request for reconsideration of Order No. 15,591, served May 15, 2015, which assessed a \$250 forfeiture against respondent and revoked Certificate No. 2368.

I. BACKGROUND

Certificate No. 2368 was automatically suspended on June 7, 2014, pursuant to Regulation No. 58-12, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 14,928, served July 17, 2014, noted the automatic suspension of Certificate No. 2368, directed respondent to cease transporting passengers for hire under Certificate No. 2368, and gave respondent 30 days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 2368.

Respondent paid the late fee and submitted a \$1.5 million WMATC Insurance Endorsement, and the suspension was lifted in Order No. 14,969, served August 6, 2014, but because the effective date of the new endorsement is August 4, 2014, instead of June 7, 2014, the order gave respondent 30 days to verify cessation of operations as of June 7, 2014, as corroborated by copies of respondent's pertinent business records, in accordance with Regulation No. 58-14(a).

On December 30, 2014, having apparently received no response from respondent, the Commission issued Order No. 15,266 directing respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2368, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

In a statement filed January 13, 2015, respondent's president, Yoseph Woldesemait, disputed the Commission's finding in Order No. 15,266 that respondent failed to respond to Order No. 14,969. The Commission, however, could find no evidence of any response, and respondent offered no date-stamped copy in support of this claim. In any event, although Mr. Woldesemait clearly stated in his January 13 statement that he did not operate "during the insurance gap period,"

respondent had yet to produce any corroborating records as required by Regulation No. 58-14(a) and directed by Order No. 14,969.

Because respondent failed to produce corroborating records as required by Regulation No. 58-14(a), and as directed by Order No. 14,969, and because respondent offered no explanation for this noncompliance, the Commission assessed a civil forfeiture of \$250 and revoked Certificate No. 2368 in Order No. 15,591 on May 15, 2015. The instant application for reconsideration followed.

II. REQUEST FOR RECONSIDERATION

Under Title II of the Compact, Article XIII, Section 4(a), and Commission Rule No. 27, an application for reconsideration of a Commission order must be filed within 30 days of its publication and state specifically the errors claimed as grounds for reconsideration.

Respondent's application for reconsideration was timely filed on June 12, 2015, and is supported by the documents sought in Order No. 14,969, but the application does not allege any error on the part of the Commission. The application therefore is denied.

III. REOPENING UNDER RULE NO. 26-04

The denial of reconsideration notwithstanding, respondent's belated document production affords the Commission an opportunity to consider reopening this proceeding under Rule No. 26-04, which provides: "If, after the hearing in a proceeding, the Commission shall have reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of such proceeding, the Commission will issue an order reopening."

Respondent's documents, chiefly bank records, support a finding that respondent did not conduct WMATC operations during the suspension period. Respondent's bank records prior to the suspension period show that respondent was transporting passengers for hire under the auspices of a transportation network company using a digital dispatch system. No evidence of such operations appear in respondent's records during the suspension period. Indeed, it appears that respondent became a patron of that company on several occasions while Certificate No. 2368 was suspended.

In addition, Mr. Woldesemait's explanation that respondent was otherwise engaged in cargo and freight forwarding operations during the suspension period are borne out by evidence of respondent's multiple purchases of shipping insurance on a lot-by-lot basis during that period.

Considering that respondent belatedly complied with Regulation No. 58-14(a) and Order No. 14,969 within the 30-day deadline for seeking reconsideration and that respondent's bank records support a finding of timely cessation of operations, we will reopen this proceeding on our own initiative under Commission Rule No. 26-04 and

reinstate Certificate No. 2368, subject to a one-year period of probation.¹

The \$250 forfeiture assessed in Order No. 15,591 is a different matter. The forfeiture was predicated on respondent's failure to produce documents on or before September 5, 2014. Respondent's 11th-hour document production does not cure that.² And although respondent claims that it "cannot financially afford to pay \$250," that claim is unsubstantiated. Respondent shall pay the forfeiture within 30 days.

IV. NAME CHANGE

We note that respondent has changed its legal name and trade name "Sheba, LLC, trading as Sheba Carriers." Respondent shall have 14 days to file a name change application.

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration is denied.
2. That this proceeding is reopened under Commission Rule No. 26-04.
3. That Certificate No. 2368 is hereby reinstated.
4. That respondent shall pay \$250 to the Commission by check or money order within 30 days.
5. That within 14 days, respondent shall file an application to change the name and trade name on Certificate No. 2368 from Sheba Network, LLC, trading as Sheba, to Sheba, LLC, trading as Sheba Carriers; and that respondent shall pay the \$100 application fee.
6. That respondent shall be placed on probation for a period of one year such that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by respondent during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND DORMSJO:



William S. Morrow, Jr.
Executive Director

¹ See *In re Challenger Transp., Inc.*, No. MP-14-139, Order No. 15,706 (June 25, 2015) (reinstating authority based on belated evidence of timely cessation, subject to one year probation).

² See *id.* (refusing to rescind \$250 forfeiture).